

Message Text

PAGE 01 STATE 202988

62

ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 /026 R

DRAFTED BY ACDA/IR: CNVANDOREN:MMF

APPROVED BY PM: GVEST

OES:HBENGELSDORF

PM:LNOSENZO

NSC:DELLIOTT

ERDA:RSLAWSON

IO:JTREVITHICK

S/P:JKAHAN

ARA/BR:RELTZ (INP.)

S/S- MR. ORTIZ

----- 029188

P 242205Z DEC 75

FM SECSTATE WASHDC

TO USMISSION IAEA VIENNA PRIORITY

INFO AMEMBASSY BONN PRIORITY

AMEMBASSY BRASILIA

AMEMBASSY PARIS

S E C R E T STATE 302988

EXDIS

E.O. 11652: GDS

TAGS: PARM, TECH

SUBJECT: IAEA-FRG-BRAZIL TRILATERAL

1. IN STRICTLY CONFIDENTIAL CONSULTATIONS HELD IN WASHINGTON DECEMBER 8 BETWEEN GERMAN DELEGATION THAT INCLUDED BALKEN, LOOSCH AND ROUGET AND U.S. DELEGATION THAT INCLUDED VEST, KRATZER, SIEVERING AND OTHERS, GERMANS GAVE US COPY OF DRAFT OF TRILATERAL AGREEMENT THAT THEY HAD WORKED OUT IN BRASILIA, AND DISCUSSED IT IN SOME DETAIL. GERMANS SAID THEY PLANNED TO SUBMIT DRAFT TO IAEA IN VERY NEAR FUTURE, WITH HOPE THAT IT WOULD BE READY FOR FEBRUARY BG MEETING.

SECRET

PAGE 02 STATE 202988

2. QUESTIONS RAISED BY U.S. TEAM INCLUDED FOLLOWING:

(A) PROVISION THAT ITEMS WOULD BE REMOVED FROM INVENTORY WHEN REEXPORTED FROM BRAZIL, WHICH WAS NOT

ACCOMPANIED BY CONDITION CONTEMPLATED BY SECTION 28(C) OF INFCIRC/66, ENSURING THAT THERE WOULD BE SAFEGUARDS IN THE STATE RECEIVING SUCH REEXPORT. THE GERMANS POINTED OUT THAT THE BILATERAL FRG-BRAZILIAN AGREEMENT DOES CONTAIN SUCH A REQUIREMENT (ALTHOUGH THERE APPEARED TO BE SOME UNCERTAINTY WHETHER IT COVERED THE EXPORT OF PRODUCED MATERIAL). WE POINTED OUT THAT THE ABSENCE OF SUCH A PROVISION IN THE TRILATERAL IS NEVERTHE-

LESS LIKELY TO BE RAISED BY THE IAEA.

(B) PROVISION FOR NOTIFYING IAEA TO ADD TO INVENTORY ANY FACILITY BUILT WITH THE USE OF TRANSFERRED TECHNOLOGY. ALTHOUGH THE DRAFT DID PROVIDE FOR THE GERMANS TO NOTIFY THE IAEA OF TECHNOLOGY TRANSFERS, AND PROVISION WAS MADE FOR PUTTING SUCH TRANSFERS ON A SPECIAL INVENTORY, THE RESPONSIBILITY FOR NOTIFYING IAEA OF THE CONSTRUCTION OF A FACILITY BASED ON THIS TECHNOLOGY WAS WITH THE RECIPIENT OF THE TECHNOLOGY. THERE WAS ALSO A PROVISION FOR CONSULTATION ON THIS MATTER BETWEEN THE SUPPLIER AND RECIPIENT. BUT THERE WAS NOT AN INDEPENDENT RIGHT OF THE SUPPLIER TO GIVE SUCH NOTIFICATION TO THE IAEA AFTER CONSULTATION WITH THE RECIPIENT (AS CONTEMPLATED IN THE GUIDELINES). THE GERMANS POINTED OUT THE PROVISION ON SETTLEMENT OF DISPUTES, WHICH ENABLES ANY PARTY TO INVOKE THE DISPUTE-SETTLING MECHANISM. WHILE STRONGLY FAVORING INDEPENDENT SUPPLIER RIGHT AND URGING FRG RECONSIDERATION OF THIS PROVISION, U.S. DELEGATION INDICATED THAT, WHEN COUPLED WITH THE PROVISION FOR CONSULTATION, THIS PROBABLY PROVIDED A PRACTICAL EQUIVALENT OF WHAT WAS CONTEMPLATED BY THE GUIDELINES.

(C) ABSENCE OF A GUARANTEE THAT SAFEGUARDED MATERIAL
SECRET

PAGE 03 STATE 202988

WOULD NOT BE USED TO FURTHER ANY MILITARY PURPOSE. U.S. TEAM GAVE GERMANS AN INFORMAL PAPER EXPRESSING WHY THIS WAS A MATTER OF CONCERN. GERMANS RESPONDED THAT THE PROPOSED AGREEMENT DID NOT CONTAIN ANY PROVISION, COMPARABLE TO SECTION 14 OF INFCIRC/153, FOR WITHDRAWING FROM SAFEGUARDS MATERIAL TO BE USED FOR A NON-EXPLOSIVE MILITARY PURPOSE, AND NOTED THAT THE FRG-BRAZIL COOPERATION AGREEMENT REQUIRED THAT SAFEGUARDS BE MAINTAINED ON ALL MATERIAL DERIVED FROM THAT COOPERATION. THUS THEY ASSERTED THAT IF THE BRAZILIANS WISHED TO USE SAFEGUARDED MATERIALS FOR NAVAL PROPULSION, THEY WOULD HAVE TO CONTINUE TO BE SAFEGUARDED IN THAT USE. U.S. TEAM EXPRESSED DOUBT THAT IAEA HAD

STATUTORY AUTHORITY TO SAFEGUARD MATERIALS IN AN ADMITTEDLY MILITARY APPLICATION, EVEN IF THE BRAZILIANS WERE WILLING TO PERMIT IT, AND NOTED THAT IAEA MIGHT WELL HAVE DIFFICULTY WITH IT. THE GERMANS SHOWED NO INCLINATION TO MODIFY THIS PROVISION, AT LEAST PENDING IAEA SECRETARIAT REACTION.

(D) WITH RESPECT TO THE PROVISION DEALING WITH THE 20-YEAR PRESUMPTION THAT A FACILITY WAS BASED ON

TRANSFERRED TECHNOLOGY IF IT WAS OF THE SAME GENERAL TYPE, U.S. TEAM NOTED THAT THE DRAFT AGREEMENT CALLED FOR MEASURING THIS PERIOD FROM THE TIME OF TRANSFER (OR NOTIFICATION OF INTENT TO TRANSFER) OF THE TECHNOLOGY, AND NOTED THAT THIS WAS INCONSISTENT WITH PART B OF THE TRIGGER LIST THAT HAD BEEN AGREED TO, AD REFERENDUM, AT THE WORKING GROUP MEETING IN LONDON ON DECEMBER 1-2 (WHICH MEASURED THE PERIOD FROM THE DATE OF INITIAL OPERATION OF THE FIRST FACILITY BUILT WITH SUCH TECHNOLOGY). U.S. TEAM EXPRESSED CONCERN THAT TRIGGER LIST PROVISION WOULD BE SERIOUSLY UNDERCUT IF FIRST ACTUAL AGREEMENT TO COME BEFORE IAEA CONTAINED THIS DIFFERENT APPROACH AND URGED GERMANS TO CONSIDER ASKING GOB WHETHER IT WOULD ACCEPT MEASURING PERIOD FROM DATE OF INITIAL OPERATION. LOOSCH SAID HE
SECRET

PAGE 04 STATE 202988

SAW THE POINT, BUT NOTED THAT THE 20-YEAR PERIOD DID NOT PRECLUDE PROOF AFTER THAT PERIOD THAT TRANSFERRED TECHNOLOGY WAS INVOLVED. HE ALSO NOTED THAT THE WORKING GROUP TRIGGER LIST PROVISION WAS STILL AD REFERENDUM, AND HAD NOT RECEIVED FORMAL APPROVAL BY THE SUPPLIER GOVERNMENTS. BALKEN ADDED THAT THE TECHNOLOGY TRANSFER PROVISIONS HAD BEEN DIFFICULT TO NEGOTIATE, AND HE CONSIDERED THEM A MAJOR ACHIEVEMENT.

3. FOR VIENNA: MISSION SHOULD SEEK TO ASCERTAIN SECRETARIAT'S VIEWS ON ABOVE POINTS, WHICH SHOULD BE REPORTED TO DEPARTMENT WITH MISSION'S RECOMMENDATIONS. KISSINGER

SECRET

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: Z
Capture Date: 18 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 24 DEC 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE202988
Document Source: ADS
Document Unique ID: 00
Drafter: ACDA/IR: CNVANDOREN:MMF
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751290/abbrznxo.tel
Line Count: 154
Locator: TEXT ON-LINE
Office: n/a
Original Classification: SECRET
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 22 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 APR 2003 by ShawDG>; RELEASED <22 SEP 2003 by greeneet>; APPROVED <23 SEP 2003 by GarlanWA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: IAEA-FRG-BRAZIL TRILATERAL
TAGS: PARM, TECH
To: IAEA VIENNA INFO BONN
BRASILIA
PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006